

BELMONT CONSERVATION COMMISSION
MEETING MINUTES

May 6, 2003

Members Present: M. Flamang, R. Foster, M. King, K. Baskin, M. Weil, J. Smith.
Associate Members Present: N. Davis, S. Sanders, M. Velie.

Additional Attendees: See attendance sheet.

The meeting was called to order at 7:20 p.m.

Minutes

The minutes for the meeting of April 1, 2002, were submitted for approval. K. Baskin noted that the name in the last paragraph should be "Belmont Foundation for Education." The minutes were accepted as so revised.

Old Business

A three-foot walkway was requested on the McLean property. M. Flamang noted his approval of the request. The Commission approved, provided that the existing trailway is followed, as set forth in the original filing.

G. Clancy noted that there has been a complaint about the siltation barrier at the ballfield at the High School, where work is still being done. He has spoken to them, and they will reattach the siltation barrier to the chain link fence.

New Business (7:30)

M. King said that, while driving up Clifton Street, she had observed employees of a landscaping company using leaf blowers to blow dirt, clippings and leaves into the gutter. M. Flamang agreed that they should be advised not to do that, because all of that runs into the streams and ponds. K. Baskin suggested that we can let the property owners know, too, by placing a notice or article in the local newspaper. M. Flamang offered to draft a notice that can be handed out and also put in the newspaper. R. Foster suggested that we have the notice put in all the Light Department bills. She offered to contact the Light Department. G. Clancy pointed out that the Town's bylaws probably prohibit such activity. He will check. M. King suggested that the notice clearly state that property owners are responsible for any violations.

M. King asked what construction is occurring across the street from the Belmont Country Club. She has observed piles of dirt and equipment there. G. Clancy said that there is sewer connection work going on next to the clubhouse, on the same side of the street. He suggested that they may be storing materials and equipment on the opposite side of the

street. R. Foster said that she thinks the Country Club may have a new manager. She has observed piles of sand across the street from the clubhouse. G. Clancy will investigate.

N. Davis noted that there are three trees at Rock Meadow which have been girdled. The tree warden said that they were a danger there and should be taken down. R. Foster suggested that they should be taken down if the tree warden judges them a danger, then chipped and the wood chips used as mulch. The Commission voted to approve the removal of the trees deemed dangerous by the tree warden.

Public Hearing – Notice of Intent – 15 Sandrick Road – Rear Deck and Vegetation Restoration (7:40)

Richard Hickey, the property owner, stated that he wants to add a deck, which will not extend further than the existing porch. The deck will have no roof and will have cracks in the mahogany decking (in other words, it will not be solid wood). No paving will be done. Perennials will be planted. The trees that were removed were endangering the house. Most of them were dead and termite-infested. One tree was on MDC property rather than Mr. Hickey's property, but he says that it was cracked and leaning on a tree next to the house.

M. Flamang replied that the Commission had asked for more detail from Mr. Hickey, but can work with him on this. MDC is on notice; they sent a memo to the Commission. Their focus is the restoration of wetlands vegetation on the MDC property itself. Mr. Hickey said that Dan Driscoll of the MDC has walked the property. He agreed to call Driscoll.

Upon further discussion, the Commission resolved that he must work with the MDC and come back to the Commission with a vegetation plan. The Commission voted to issue the Order of Conditions, with the standard construction mitigation and other standard conditions, and with the further condition that an onsite planting plan must be approved both by the MDC and by the Commission.

Public Hearing – Notice of Intent – 119 Leonard Street – Rear Addition (8:00)

Clay Metelmann, the property owner, and George Tougias, the architect, appeared before the Commission to describe the proposed work, using a model of the house. They propose re-orienting the driveway and adding a 403 square foot addition. Mr. Tougias emphasized that the work would result in a restoration of 127 square feet of impervious area and improvement of roof drainage, into a drywell. The work will result in the parking being further away from the brook as well. K. Baskin asked them to show the Commission where the 100-year flood plain falls, because it is not shown on the map.

S. Sanders stated that the roof runoff will be increased to a rate greater than the drywell can handle it. He proposed that the Commission require them to add a pool to the brook. Several of the Commission members stated that they would be opposed to such a requirement. S. Sanders argued that all the tampering over the years along that stream

has endangered the herring there. Mr. Metelmann replied that they are trying to mitigate the current situation, in which the runoff from the driveway goes directly down to the stream. K. Baskin said that she doesn't think that the runoff is necessarily increased.

The owner is willing to take the Commission's advice as to planting vegetation near the stream. M. Flamang pointed out that he must be careful in fertilizing in the area of the stream. Mr. Metelmann replied that they will be using only organic materials on the lawn.

If there is a FEMA flood plain map of the area, they must come to the Commission with it. Upon questioning, the owner stated that he has a mortgage on the property but no flood insurance. This answers the question whether he is in a flood plain, because a mortgagee would require flood insurance if the property was in a flood plain.

The question is raised whether a "best alternative" analysis is required. G. Clancy stated that because of zoning setback requirements, they are not required to do a "best alternative" analysis.

The Commission voted to issue the Order of Conditions, with conditions as stated above, as well as the standard conditions.

Public Hearing – Extension of Existing Order of Conditions – 115 Mill Street (8:30)

Richard Westcott, representing Northland, explained that they are requesting an extension of the Order of Conditions for roadway work. Northland has not yet taken possession of the property. They had previously asked for a three-year extension and were given only a one-and-a-half year extension, to June 11, 2003. March 3, 1999 was the date of the original Order of Conditions. K. Baskin stated that she thinks 7 years is probably too long for a wetlands delineation to remain in place. M. Flamang asked Mr. Westcott whether it is his professional opinion that nothing has changed. He replied that it is, but any re-flagging would require the exercise of some judgment and may therefore give different results.

R. Foster asked whether the stream has silted up or otherwise changed. Mr. Westcott replied that he doesn't think so. K. Baskin stated that she doesn't think that requiring a new delineation penalizes the owner. These delays are due to circumstances beyond everyone's control. The regulations governing renewal were read aloud by G. Clancy. The Commission concluded that the regulations require a new Notice of Intent if conditions have changed such that interests protected by the Act would no longer be protected. R. Foster suggested that an extension could be granted for a period less than the requested three years.

Sue Bass asked whether there are two crossings of the wetlands, and whether there is a condition that the road be pervious. R. Foster responded that the Fire Department required another road for access, and that road was to be pervious. G. Clancy suggested that the hearing be continued to the June meeting so that the Commission could visit the

site. Mr. Westcott agreed to walk the site with the Commissioners. However, he objected to the work stoppage that would result in the meantime.

M. Flamang suggested that the Commission could extend the Order of Conditions for three years, subject to the requirement that the Commission view the site within 3 months and conclude that the wetlands have not changed. If the Commission finds any change in the wetlands, the wetlands delineation can be modified. The Commission discussed the length of time that the Order of Conditions should be extended. After Mr. Westcott pointed out that the buildings are the subject of a separate Order of Conditions, the Commission voted to approve a three-year extension, subject to the requirement suggested by M. Flamang.

Public Hearing – Request for Determination – 115 Mill Street (9:05)

This request includes installation of a sidewalk and new curbing and landscaping. The gas, electric and communications conduits must be installed, and all of that work will be done within the existing roadway. R. Foster pointed out that all the runoff is caught at the edge of the road and directed to catchbasins. S. Sanders said that the current state of the art solution would be to direct the runoff over grassy areas. Mr. Westcott replied that the road was already there, and reconstruction would be required if they were to direct it otherwise.

Sue Bass said that Beaver Brook is across the street and the MDC should be there. The Commission should not act without their input. Mr. Westcott replied that there was a meeting at which the MDC was present and he thought they were satisfied.

K. Baskin asked whether some stormwater can be diverted. Westcott responded that, in the developed parcels above the roadway, there are modern stormwater controls. M. Flamang raised the question whether some conditions can be imposed that will improve this area. After discussion, the Commission decided that the negative determination would be granted, upon condition that the developer look into more innovative methods to permit some of the stormwater to remain in the grassy areas.

Public Hearing – Notice of Intent – Proposed Cemetery Site, Concord Avenue (9:27)

G. Clancy described this as a re-filing of an application made in 2000 for excavation of some 4” by 4” boundary markers. The Order of Conditions has expired, and no extension was requested, but this is really the same work. The Commission voted to issue the requested Order of Conditions.

Public Hearing – Notice of Intent – Frontage Road and Acorn Park Drive – Four Story Office Building and Three Level Parking Structure (9:30)

Darrell Oakley and Laura Rome of Epsilon Associates and Jim Ward, an attorney, appeared on behalf of O’Neill Properties. M. Flamang questioned why this Notice of Intent was filed for an office building and parking structure, when O’Neill had announced

that it no longer planned to build such a project. R. Foster stated that she had watched Mr. O'Neill's appearance before the Board of Selectmen, and quoted his statements that there is no demand for an office building, and he plans to build a residential project instead. K. Baskin also questioned the timing of the filing. L. Rome replied that they were following the normal procedure of filing a Notice of Intent after filing for MEPA review. They are proceeding with permitting as originally planned.

R. Foster suggested that the Commission need not open the hearing, because O'Neill clearly does not plan to build this project. K. Baskin said that, once the Notice of Intent is filed, a hearing must be held. There was a brief discussion about whether the hearing should be opened. Sue Bass stated that the wetlands delineation previously obtained by O'Neill will expire on June 27, and the wetlands and floodplains are clearly wrong now. New floodplain designations are imminent. In addition, the regulations require that all approvals for the project must be obtained before the Commission is required to hold a hearing, and clearly here such approvals have not been obtained. O'Neill does not yet have a site plan approval. She believes that this is an attempt by O'Neill to avoid having to use the new wetlands data.

Mike Nakagawa, a Cambridge resident, agreed that not all approvals had been obtained because design and site plan approval are required under the by-law. J. Ward responded that those are "by right" approvals and therefore shouldn't be required before the hearing on the Notice of Intent is opened. They have tried to get MEPA certification first so that if the Order of Conditions is appealed to the DEP, the certification can be presented as evidence. No other approvals should be needed prior to hearing. J. Smith asked whether McLean had obtained its site plan approval before filing its Notice of Intent.

R. Foster moved that the Commission not open the hearing. Mark D'Andrea, Precinct 3, argued that the Commission should not refuse to open the hearing. J. Ward argued that the required 21 days are over this Friday, and the Commission will be in violation of the Act and regulations if no decision is made by then.

M. Flamang opened the hearing at 10:15. A question was raised about the delivery of notice to the abutters. Where was the MDC notice sent? D. Oakley replied that they used the address provided by the Belmont Assessor's Office, as required by the regulations. M. Flamang pointed out that this is obviously not a real address, and that is a problem.

The O'Neill representatives noted that the Notice of Intent does not include the utility lines and the road because the MEPA review has not been concluded yet. They will come back to us for approval of that. There will be mitigation of the loss of Bordering Land Subject to Flooding in a 3 to 1 ratio. Native species will be planted in the area.

Brian Sullivan of Rizzo Associates explained the stormwater management plan. Upon questioning, he stated that a change in the flood plain delineation of 6 inches would not change the impact of this project significantly. They will decrease the runoff by ten

percent. The replication of flood storage far exceeds that required by the by-law. The by-law requires 1.5 to 1 replication and they have provided nearly 3 to 1 replication.

K. Baskin acknowledged that the 3 to 1 replication exceeds the requirements. She asked if they would consider coming back to the Commission if the delineation of the flood plain changes during construction. Sullivan replied that he does not think the FEMA delineation will change any time soon. K. Baskin requested a site visit to view the new wetlands that O'Neill has requested the Commission to approve in this Notice of Intent.

S. Sanders raised a concern about destruction of the woodcock habitat. Each pair needs ten acres. D. Oakley replied that the BLSF review standard is 500 square feet. Their project meets that standard.

Ellen Mass of the Friends of Alewife Reservation also voiced concerns about the displacement of wildlife. She stated that Roger Wrubel does not think such a large amount of the buffer zone should be disturbed. She is also concerned about the destruction of silver maples. This is the last silver maple forest in the region. She believes that the EIN does not properly address this concern. The coyote and fox population will also be adversely impacted.

M. Nakagawa stated that too much of the project is located within the buffer zone, including the road. The compensatory storage is actually only a 2 to 1 ratio on an incremental basis. They must comply with Belmont's flood plain overlay district.

The O'Neill representatives agreed to continue the hearing. The Commission will visit the site on Tuesday, May 20 at 3:00, meeting on Acorn Park Drive. D. Oakley agreed that he will meet us there, and he will make sure that the area of the buildings and the compensatory storage will be staked so that the Commission can observe their placement on the ground. The Commission will also provide O'Neill and its representatives with a memorandum of the items they must address at the next meeting. K. Baskin requested that the MDC be notified in a meaningful way.

The meeting was then adjourned at 11:25 p.m. The next meeting will be held at the Faculty Dining Room at Chenery Middle School on Tuesday, June 3, 2003.

Prepared by:
Johanna Smith